



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR
9004-2(c)**

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Co-Counsel for the Class 10 Liquidation Trust

In re:

SHAPES/ARCH HOLDINGS L.L.C., *et al.*,

Debtors.

Chapter 11

Case No. 08-14631
(Jointly Administered)

Judge: Hon. Gloria M. Burns

**CONSENT ORDER MODIFYING THE
AUTOMATIC STAY AND THE PLAN INJUNCTION IN
FAVOR OF HAL AND DEBRA YATES, ET AL. FOR THE LIMITED
PURPOSE OF PERMITTING HAL AND DEBRA YATES, ET AL.
TO PURSUE AN ACTION TO THE EXTENT OF INSURANCE**

The relief set forth in the following pages, numbered two (2) through six (6) is

hereby

ORDERED.

DATED: 4/19/2010

45765/0003-6459166v1



Honorable Gloria M. Burns
United States Bankruptcy Court Judge

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Debtor: SHAPES/ARCH HOLDINGS L.L.C., *et al.*
Case No: 08-14631 (GMB)
Adv. Pro. No. 10-01031 (GMB)
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WHEREAS, Cody Yates, an infant by his guardians *ad litem* Hal and Debra Yates, and Hal and Debra Yates, individually, and Katie Yates (collectively, the “**Claimant**”), filed an action in the Superior Court of New Jersey, Ocean County captioned *CODY YATES, an infant by his guardians ad litem HAL and DEBRA YATES; and HAL and DEBRA YATES, Individually; KATIE YATES v. ULTRA HARDWARE PRODUCTS, LLC; ALUMINUM SHAPES, LLC; THE ARCH AMERICA COMPANY; THE HOME DEPOT, INC; RICKEL HOME CENTERS, INC; EOS PARTNERS L.P.; AND A-Z OWNER CORPORATIONS (1-5) (Fictitious Corporations); XYZ MANUFACTURING INC. (1-5); JOHN DOE MANAGEMENT COMPANY (1-5); and JANE AND JOHN DOES (1-5) (Fictitious Individuals), Case No. OCNL-435-08* alleging counts of Strict Products Liability; Failure to Test, Warn, or Instruct; Breach of Implied Warranty of Merchantability and of Fitness for Particular Purpose; Negligent Design and Manufacture; Violations of the Consumer Fraud Act; Common Law Fraud; and Negligent Infliction of Emotional Distress on Bystander(s); and seeking a judgment in an amount in excess of \$1,000,000 (the “**Action**”); and

WHEREAS, Shapes/Arch Holdings L.L.C., Shapes LLC, Ultra LLC, Delair LLC, and Accu-Weld LLC (together, the “**Debtors**”) filed voluntary petitions for relief pursuant to Chapter 11 of Title 11 of the United States Code, as amended (the

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“Bankruptcy Code”) on March 16, 2008 (the **“Petition Date”**) in the United States

Bankruptcy Court for the District of New Jersey; and

WHEREAS, upon such filings, actions against the Debtors and their assets on
account of pre-petition claims were barred by the automatic stay provisions of Section
362 of the Bankruptcy Code; and

WHEREAS, the Claimant, by and through counsel, filed a proof of claim in the
bankruptcy cases on April 4, 2008, alleging an unsecured claim against the Debtors in the
amount of \$1,000,000; and

WHEREAS, the Debtors’ Third Amended Joint Plan of Reorganization (the
“Plan”) was confirmed by Order of this Court dated July 24, 2008 (the **“Confirmation
Order”**) and became effective on August 8, 2008 (the **“Effective Date”**); and

WHEREAS, on the Effective Date of the Plan, the Class 10 Liquidation Trust
(“the **Trust**”) came into existence, and pursuant to Sections 4.5, 5.2 and 5.3 of the Plan
and Article IV of the Plan Administration Agreement (an exhibit to the Plan), the Trust,
by its Trustee, Steven D. Sass, was empowered to, among other things, object to and
resolve unsecured claims; and

WHEREAS, the Debtors, the Claimant and the Trust (together, the **“Parties”**)
wish to consensually resolve any claims the Claimant may hold against the Debtors

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and/or the Trust and the property of each, including, but not limited to, claims asserted in
the Action;

NOW, THEREFORE, it is hereby stipulated and agreed between the Debtors,
the Claimant and the Trust as follows:

A. The automatic stay pursuant to 11 U.S.C. § 362(a) and the injunction
provisions of the Plan and Confirmation Order are hereby modified in these cases to
permit the Claimant to proceed with the Action, solely on the terms and conditions set
forth below.

B. The Claimant agrees that its recovery against the Reorganized Debtors, the
Debtors' estates and property shall be limited to the actual available proceeds, if any, of
insurance, and shall be recoverable by the Claimant solely from the insurer and not from
the Reorganized Debtors, the Debtors' estates or any of the Debtors' other assets. Except
as otherwise set forth in this paragraph, the Claimant hereby releases the Debtors and
their estates from any and all obligations, claims and demands of any kind, at law or in
equity, arising out of, by reason of or relating to the Action or any other obligations,
claims and demands of any kind that the Claimant may hold or assert against the Debtors
or their estates as of the date of this Stipulation.

C. The Claimant acknowledges and agrees that it has no claims against the
Trust, the Trustee or the assets of the Trust, and that it is not a beneficiary of the Trust

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and will not seek any distribution or recovery from the Trust. The Claimant hereby releases the Trust and the Trustee from any and all obligations, claims and demands of any kind, at law or in equity, arising out of, by reason of or relating to the Action or any other obligations, claims and demands of any kind that the Claimant may hold or assert against the Trust or the Trustee as of the date of this Stipulation.

D. This Stipulation contains the entire agreement by and among the Parties and all prior understandings or agreements between them, if any, are merged into this Stipulation.

E. This Stipulation and the obligations of the Parties are specifically subject to, and conditioned upon, the approval of the Stipulation by the Bankruptcy Court. If the Bankruptcy Court declines to approve the Stipulation, the provisions hereof shall be null, void and of no force and effect, and nothing contained herein shall be deemed an admission by any of the Parties.

F. This Stipulation may be signed in counterparts, and faxed copies of signatures shall be deemed originals for purposes of this Stipulation.

G. This Stipulation shall be binding upon all successors and assigns of each of the Parties, and any subsequently appointed Chapter 11 trustee or Chapter 7 trustee.

H. This Court shall retain jurisdiction to resolve disputes or controversies arising from or related to the terms of this Stipulation

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Dated: April 12, 2010
Cherry Hill, New Jersey

COZEN O'CONNOR, PC
Counsel to the Debtors and Reorganized
Debtors

By: /s/ Jerrold N. Poslusny
Jerrold N. Poslusny, Jr.
Liberty View, Suite 300
457 Haddonfield Road
Cherry Hill, NJ 08002
856-910-5005

Dated: December 16, 2009
Toms River, New Jersey

FUGGI & FUGGI
Attorneys for Hal & Debra Yates, *et al.*

By: /s/ Robert R. Fuggi, Jr.
Robert R. Fuggi, Jr.
47 Main Street
P.O. Box 1808
Toms River, NJ 08754
732-240-9095

Dated: April 14, 2010
Hackensack, New Jersey

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
Counsel to the Class 10 Trust

By: /s/ Ilana Volkov
Ilana Volkov
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Imaged Certificate of Service Page 7 of 7
CERTIFICATE OF NOTICE

District/off: 0312-1
Case: 08-14631

User: bdrayton
Form ID: pdf903

Page 1 of 1
Total Noticed: 3

Date Rcvd: Apr 20, 2010

The following entities were noticed by first class mail on Apr 22, 2010.

db +Shapes/Arch Holdings L.L.C., 9000 River Road, Delair, NJ 08110-3204
aty +Kevin M. McKenna, Latsha Davis Yohe & McKenna, 350 Eagleview Boulevard, Suite 100,
Exton, PA 19341-1178
aty +Timothy W. Garvey, Latsha, Davis, Yohe & McKenna, 3000 Atrium Way, Suite 251,
Mt. Laurel, NJ 08054-3926

The following entities were noticed by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 22, 2010

Signature:

